

BEFORE THE NORTH CAROLINA INDUSTRIAL COMMISSION

FILE NUMBER 15-013187

SAMANTHA LOWE
(Hereinafter called "Employee")

FORSYTH COUNTY
(Hereinafter called "Employer")

PMA COMPANIES
(Hereinafter called "Servicing Agent").

AGREEMENT OF FINAL SETTLEMENT AND RELEASE

THIS AGREEMENT OF FINAL SETTLEMENT AND RELEASE, made and entered into this, the 14th day of September, 2015, by and between Samantha Lowe, hereinafter called the Employee, and Forsyth County, hereinafter called the Employer, and by and through PMA Companies, hereinafter called the Servicing Agent,

WITNESSETH:

WHEREAS, the parties are subject to and bound by the provisions of the North Carolina Workers' Compensation Act and, on the 5th day of January, 2015, the relationship of Employer-Employee having existed; and

[illegible]

and is entitled to continue to work for the Employer.

WHEREAS, the Employee is represented by Daggett Shuler, Winston-Salem, North Carolina, Christopher Wilkie appearing, and the Employer and Servicing Agent are represented by the Kestenbaum Law Firm, Durham, North Carolina, Jane Kestenbaum appearing; and

WHEREAS, the Employee, Employer, and Servicing Agent feel that it is in the best interests of the parties to have finality of litigation in these matters, and to that end desire to compromise and settle all matters in controversy among themselves, without the necessity of any hearing before the North Carolina Industrial Commission, subject to the approval of said Commission, as by law provided.

NOW, THEREFORE, notwithstanding the controversy between the Employee and the Defendants, and in specific recognition of the need for finality in the litigation, and in consideration of the things hereinabove received as having been done and the things hereinafter agreed to be done and the mutual agreements on the part of each of the parties, it is agreed as follows:

1. The Employer and Servicing Agent agree to pay or cause to be paid to Employee and without commutation, the lump sum of FORTY-TWO THOUSAND AND FIVE HUNDRED DOLLARS AND NO CENTS (\$42,500.00) in full and final settlement of all compensation due or to become due under and by virtue of the North Carolina Workers' Compensation Act for the claim that is subject to this agreement. The Employer and Servicing Agent further agree to continue temporary total disability payments to the Employee, at the rate of \$561.58 per week, through the date of the approval of this Settlement Agreement by the North Carolina Industrial Commission.

2. Whereas, the Employee was born on [REDACTED] and has completed the age of 29 years. It is specifically agreed and understood that the aforementioned lump sum of \$42,500.00 is being paid under the following terms and conditions:

(a) It is anticipated that, subject to the approval of the North Carolina Industrial Commission, an attorney fee in the amount of \$10,625.00 will be deducted from the aforementioned lump sum and paid directly to counsel for the Employee; and

(b) The Employee's share of the lump sum is \$31,875.00 and represents an effective weekly benefit rate of \$12.64 per week for 48.5 years, or 2,522 weeks, said period of time being the Employee's life expectancy as per North Carolina General

Statutes § 8-46 (Revised 1997) as measured from the time the Employee is entitled to receive this settlement.

The payments under this agreement are intended as compensation for injuries or sickness within the meaning of Section 104(a)(1) of the Internal Revenue Code. In this regard, no Form 1099 will be issued for any sums paid hereunder.

Due to the contested nature of this claim and the dispute regarding future medical care and treatment, the parties agree that no amount, or \$0.00, of this settlement is set-aside to account for the Employee's future medical expenses and no amount of this settlement is allocated or set aside for the purpose of future medical expenses. This settlement agreement specifically forecloses the possibility of future payment of medical benefits incurred after the date of the settlement agreement. The Employee verifies that at the time of the settlement of this claim, Employee is not eligible for Medicare benefits.

3. The Employer and Servicing Agent will pay, or cause to be paid, any related medical bills incurred as the result of the Employee's accepted, compensable left lower extremity injury and low back injury up to the date of this agreement and no further. However, the parties agree that all such medical bills are paid in full and there are no outstanding medical bills related to this accepted claim. It is further agreed by the parties that the positions of the respective parties to the Agreement are reasonable as to the payment of medical expenses. The parties hereby acknowledge that the issue of the payment of medical expenses is a material element to the Employer and Servicing Agent entering into this agreement.

4. Whereas it is not the intention of the parties to this Settlement Agreement to shift responsibility for future medical treatment that the Employee may need to Medicare at some future time. In considering these issues, the parties specifically considered the fact that the Employee has not applied for Social Security Disability Benefits as a result of her accidental injury of January 5, 2015, and the Employee is currently not Medicare eligible and has no reasonable expectation of becoming Medicare eligible related to the accidental injury that is the subject of this claim. In that regard, the parties have reasonably considered the interest of Medicare in reviewing all medical records related to this matter and have in good faith determined that no allocation is needed, and therefore, no Medicare Set Aside has been established.

5. The Employer and Servicing Agent agree to pay or cause to be paid the costs of this proceeding before the North Carolina Industrial Commission.

6. It is understood and agreed by the Employee that in making this Agreement, she was not influenced by any representations or statements regarding her condition, the nature of her injuries, or any other matters concerning her claim before the North Carolina Industrial Commission, made by any person, firm, corporation, physician, or surgeon acting for or on behalf of the Employer-Defendant or Servicing Agent; that the facts in connection with her employment and with her alleged accidental injury and impaired physical condition, if any, are fully known, understood and comprehended by the Employee, and that her rights under the Workers' Compensation Act are thoroughly and completely understood by her. In making this Agreement the parties hereto understand that the Employee's condition as a result of her alleged injury

may be permanent, recurrent and progressive, and in making this Agreement it is understood that the sum of money herein paid and other agreements recited above are in full and final settlement of all claims of the Employee against the Employer and Servicing Agent as to claims under the North Carolina Workers' Compensation Act, including future medical expenses, change of condition and/or death benefits. The parties expressly waive the right, if any, to set aside this Settlement Agreement should the medical opinions made orally to the Employee by her health care providers, expressed in this Agreement, and/or in the medical records prove to be in error. Further the parties agree that this Agreement may not be set aside on the grounds that further or additional medical information or records exist or could be acquired. The parties affirmatively represent to the Industrial Commission that they have each had the opportunity and ability to obtain the medical and other records necessary to appropriately evaluate this claim and to enter into this Settlement Agreement.

7. The Employee agrees to accept the sums herein agreed to be paid to her or on her behalf, in full, final and complete settlement and satisfaction of any past, present and future claims, demands, suits, actions or rights of action of whatsoever nature and kind, which the said Employee now has or may hereinafter have or claim to have on account of the alleged injury of January 5, 2015. It is the sense of the agreement that the said sums so agreed to be paid shall be accepted in full settlement and satisfaction of all claims arising out of the alleged injury on January 5, 2015, whether presently existing, or presently known, or whether hereinafter existing, appearing or otherwise, and whether by virtue of things now existing or by change of

conditions hereinafter. However, it is further agreed that no rights other than those arising under the provisions of the Workers' Compensation Act are compromised or released. The Employee knowingly and intentionally waives any right she may hereafter have to claim any medical expenses or indemnity compensation for the alleged injuries which are the subject of this agreement.

8. The parties to this agreement hereby waive any hearing before the North Carolina Industrial Commission, and in presenting this agreement for approval, they represent that they have made available to the Commission with said agreement all medical information presently in their possession concerning the Employee's physical condition.

9. This agreement is made expressly subject to the approval of the North Carolina Industrial Commission and to the provisions of the North Carolina Workers' Compensation Act, and the same shall be binding upon the parties to this agreement only if and when the same shall have been submitted to and approved by said Commission either by the endorsement of its approval hereon or by the issuance of its award approving the same.

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IN WITNESS WHEREOF, the parties hereto have set their hands and Employee has adopted as her seal the "Seal" appearing beside her signature, all as of the day and year first above written.

 (Seal)
SAMANTHA LOWE, EMPLOYEE

STATE OF NORTH CAROLINA

COUNTY OF Forsyth

I, Keristan D. LaGoe, a Notary Public in and for said County and State, do hereby certify that SAMANTHA LOWE personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this, the 29th day of September, 2015

Keristan D. LaGoe
Notary Public

My Commission Expires: June 29, 2016



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FORSYTH COUNTY, Employer.

By: [Signature]
Attorney

PMA COMPANIES, Servicing Agent

By: [Signature]
Attorney

By:

[Signature]
Jane Kestenbaum
NC State Bar No. 16459
Attorney for Employer
Kestenbaum Law Firm
P.O. Box 51939
Durham, North Carolina 27717
(919) 459-2366

Consented to by:
Daggett Shuler

By:

[Signature]
Mr. Christopher Willde
NC State Bar No. 31869
Daggett Shuler
2140 Country Club Road
Winston-Salem, NC 27104
Phone: (336) 724-1234

